

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND
EARTH, INC.,

Plaintiffs and Counterclaim
Defendant,

v.

EARTH PRODUCTS INC.,

Defendant and Counterclaim
Plaintiff.

EARTH PRODUCTS INC.

Third Party Plaintiff,

v.

PLANET,
INC.

Third-Party Defendant.

CIVIL ACTION NO. 05 CV 11781
NMG

**MOTION TO STRIKE EARTH PRODUCTS'
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Meynard Designs, Inc. (“Meynard”), Earth, Inc. and Planet, Inc. (collectively “Plaintiffs”) move for entry of an Order striking Earth Products Inc.’s (“EP”) premature and untimely Motion for Partial Summary Judgment of Invalidity of United States Trademark Registrations 2,249,826 and 2,199,118, and associated papers. (D.I. # 62-64). In support of this motion to strike, Plaintiffs rely on the accompanying memorandum of law.

Respectfully submitted,

MEYNARD DESIGNS, INC.,
EARTH, INC., and
PLANET, INC.,

By their attorneys,

Dated: November 8, 2007

/s/ Hunter Keeton
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Local Rule 7.1 Certificate

Pursuant to Local Rule 7.1(a)(2), the undersigned certifies that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented in this motion, and that counsel for EP have refused to consent to this motion.

/s/ Hunter Keeton

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Hunter Keeton